
Public Notice

Applicant:

Windsor Ridge Partners, LLC

Date:

Published: March 10, 2003

Expires: April 8, 2003

**U.S. Army Corps
of Engineers****In Reply Refer To:****Buffalo District CELRB-TD-R RE: 2000-01026(1) Section: NY 404**

Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).

Windsor Ridge partners, LLC. proposes to construct the Harris Hill Commons development on an approximately 88.6 acre parcel located at the intersection of Harris Hill and Greiner Roads in the Town of Clarence, Erie County, New York. The proposed development is a Planned Unit Residential Development and includes Residential, Restricted Business, Neighborhood Business and Multiple Family Residential components. The proposed project will include the placement of fill into approximately 1.6 acres of Federally regulated wetland areas.

The project consists of the following:

- a. Fill material will be placed into approximately 1.6 acres of Federal jurisdiction wetlands for the construction of roads, parking lots, buildings and landscaping. These wetlands consist of three areas ranging in size from 0.27 acres to 0.73 acres and consist primarily of scrub/shrub habitat and early successional woods. A fourth wetland area totalling approximately 0.76 acres in size will also be impacted by the development, but this wetland was determined not to be directly connected to or adjacent to a surface tributary system of a navigable water of the United States and therefore is not regulated under Section 404 of the Clean Water Act. The entire site is a former agricultural area and was in production in the early and middle 1900s. Due to the small size of the on-site wetlands and the density of the proposed surrounding development, the applicant has indicated that avoidance of wetland impacts on the site is not a practicable option and would not result in ecologically viable wetlands.
- b. The total project site was originally approximately 115 acres in size. However, the northwestern corner (approximately 26 acres) was previously subdivided for the construction of the Eastern Hills Wesleyan Church. The placement of fill into

approximately 1.2 acres of wetland associated with this portion of the project was authorized separately under Department of the Army Permit No. 2000- 01026(0). As mitigation for impacts associated with the church construction, the applicant constructed approximately 2.3 acres of wetlands at an off site location.

c. As mitigation for unavoidable impacts to approximately 1.6 acre of Federal wetlands, the applicant proposes to create/restore approximately 6.3 acres of a mixture of wet meadow/emergent marsh/robust emergent marsh/deep water habitat at an off site location. The mitigation site is located on an approximately 54 acre site on Tonawanda Creek Road in the Town of Amherst, Erie County, New York. Portions of this site have already been successfully restored to wetland as mitigation for other projects, including the construction of the Eastern Hills Wesleyan Church. The project parcel is located in the Got Creek and Ransom Creek watersheds, which are part of the larger Tonawanda Creek watershed. The mitigation site is located adjacent to Tonawanda Creek.

The applicant's stated purpose is to construct the Harris Hill Commons Planned Unit Residential Development.

Location and details of the above described work are shown on the attached maps and drawings.

Questions pertaining to the work described in this notice should be directed to Steven V. Metivier, who can be contacted by calling (716) 879-4314, or by e-mail at: steven.v.metivier@usace.army.mil

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, and should be marked to the attention of Steven V. Metivier, or by e-mail at: steven.v.metivier@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Paul G. Leuchner
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.